

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ILLINOIS

JOHN MARK DEVOUS	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.:
	)	
MEDTRONIC USA, INC.,	)	
MEDTRONIC, INC., MEDTRONIC	)	
MINI MED, INC., MINI MED	)	
DISTRIBUTION, INC.	)	
	)	
Defendants.	)	

**COMPLAINT**

NOW COMES the Plaintiff, John DeVous, by and through his attorneys,  
Howerton, Dorris, Stone & Lambert, and for his Complaint, states:

**JURISDICTION**

1. John DeVous is an adult citizen of the state of Illinois living at all times relevant in Equality, Illinois.
2. Defendant Medtronic, Inc. is a foreign corporation organized and existing under the laws of Minnesota with its principal place of business at 710 Medtronic Parkway, Minneapolis, MN 55432.
3. Defendant Medtronic USA, Inc. is a foreign corporation organized and existing under the laws of Minnesota with its principal place of business at 710 Medtronic Parkway, Minneapolis, MN 55432.
4. Defendant Medtronic Mini Med, Inc. is a foreign corporation organized and existing under the laws of Delaware with its principal place of business at 18000 Devonshire Street, Northridge, CA 91325.

5. Defendant Mini Med Distribution, Inc. is a foreign corporation organized and existing under the laws of Delaware with its principal place of business at 18000 Devonshire Street, Northridge, CA 91325.

6. This Court has diversity jurisdiction pursuant to 28 U.S.C. §1332 because the amount in controversy exceeds \$75,000.00 exclusive of interest and costs and this case is between citizens of different states.

7. Venue is proper in this Court pursuant to 28 U.S.C. §1391.

### FACTS

1. John DeVous was injured as a result of a defective Medtronics product, which occurred in his home in Equality, Illinois on August 30, 2017.

2. On and prior to August 30, 2017 John DeVous used a Medtronic Mini Med model 630G insulin pump to deliver insulin into his bloodstream to treat his diabetes.

3. The model 630G Medtronic Mini Med Insulin Pump works in conjunction with Medtronic Mini Med Quick Set Paradigm infusion components, which when coupled with the pump, delivers insulin into its intended users.

4. The Defendants designed, manufactured, marketed and distributed the 630G pump and the Mini Med Quick Set Paradigm infusion components to deliver insulin from an insulin pump to a diabetes patient in a measured and safe amount.

5. The Mini Med Quick Set Paradigm infusion components consist of a membrane through which insulin passes from the pump reservoir into

disposable plastic tubes which then transport the insulin into the patient's body in a measured and safe amount.

6. Prior to August 30, 2017, Defendants became aware of problems with certain lots of the Medtronic Mini Med Quick Set Paradigm infusion components, the problem being the over delivery of insulin.

7. Prior to August 30, 2017, John DeVous received shipments of the defective Medtronic Mini Med Quick Set Paradigm infusion components from Defendants.

8. On August 30, 2017, at his home in Equality, Illinois, John DeVous changed out the infusion components he had been using with the defective Medtronic Mini Med Quick Set Paradigm infusion components.

9. Following the change to the defective Medtronic Mini Med Quick Set Paradigm infusion components, the pump, in combination with the defective Mini Med Quick Set Paradigm infusion components, delivered an overdose of insulin into John DeVous's body.

10. The overdose of insulin caused John DeVous to suffer severe hypoglycemia.

11. The severe hypoglycemia caused John DeVous to have a seizure.

12. The seizure resulted in physical harm, including a dislocation of his shoulder and fracture of his arm.

13. The membrane of Medtronic Mini Med Paradigm infusion component that John DeVous was using on August 30, 2017 failed to work as

designed, in that it permitted insulin to be over delivered from the pump's reservoir through the membrane and into his body.

14. Prior to August 30, 2017, John DeVous did not know that Mini Med Quick Set Paradigm infusion components shipped to him for use with his Medtronic 630G insulin pump were defective such that when used in conformance with the Defendant's instructions he was at risk of over delivery of insulin which could lead to a hypoglycemic episode and injury.

15. On September 7, 2017 Medtronic issued an urgent medical device recall regarding Medtronic Mini Med Infusion Sets.

16. The Medtronic Mini Med Paradigm infusion components at issue were subsequently recalled by Defendants on September 7, 2017 due to the defective membrane condition described herein.

17. The recall notice states that "Medtronic has become aware of recent reports of potential over delivery of insulin shortly after an infusion set change." Medtronic's recall further notes it has received reports of hypoglycemia requiring medical attention related to this issue, which Medtronic can see it is going to result in "hypoglycemia, and in extreme cases, death."

18. The recall notice states that this problem is caused by fluid blocking the infusion set membrane during the priming/fill tubing process which prevents the infusion set from working properly. The result can be fast delivery of overdoses of insulin.

19. The recall notice also announces that Medtronic had an alternative infusion set design which contains a “new and enhanced membrane material that significantly reduces the risk.”

20. Over delivery of insulin is a serious health risk and poses an unreasonable risk of harm to its users.

21. The over delivery of insulin into John DeVous occurred because of the defect and circumstances described by Medtronic in its recall materials.

### COUNT I

22. At all times relevant to the Complaint, the Defendants were in the business of designing, manufacturing, marketing, testing, labeling, selling and/or distributing Medtronic Mini Med Paradigm infusion components.

23. The Medtronic Mini Med Paradigm infusion components shipped to John DeVous were defective and unreasonably dangerous at the time they left Defendants control.

24. The defective and unreasonably dangerous conditions existed when Defendants sold the product.

25. The defective and unreasonably dangerous conditions existed when John DeVous received the product.

26. As a direct and proximate result of the unreasonably dangerous condition of the Medtronic Mini Med Paradigm infusion components, John

DeVous was injured, experienced pain, suffering, disability, disfigurement, loss of income, loss of a normal life and medical expense.

WHEREFORE, John DeVous prays for Judgment against Defendants, plus cost of suit.

HOWERTON, DORRIS, STONE & LAMBERT

By: \_\_\_\_\_

  
Stephen W. Stone, #6204573  
[ssstone@hdsllawfirm.com](mailto:ssstone@hdsllawfirm.com)

COUNT II

*Negligence and Willful and Wanton Misconduct*

27. Prior to August 30, 2017, Defendants knew their Medtronic Mini Med Paradigm infusion components were unreasonably dangerous and defective when used as designed and directed because of the membrane defects described herein and in Medtronic's recall materials.

28. Prior to August 30, 2017, Defendants had a duty to exercise reasonable care to warn, issue recalls, and/or otherwise act with dispatch to protect its customers from the life-threatening defect described herein.

29. Defendants breached their duties, in that they:

- a. failed to timely inform users including John DeVous of the defect;
- b. failed to timely implement and execute corrective and preventative actions to eliminate injuries;

- c. continued to promote and market the product despite knowledge that its defective components could cause serious injury and even death;
- d. acted with conscious indifference and utter disregard to the harm its defect might cause.

30. As a direct and proximate result of these negligent and willful and wanton acts, John DeVous was injured, experienced pain, suffering, disability, disfigurement, loss of income, loss of a normal life and medical expense.

WHEREFORE, John DeVous prays for Judgment against defendants, compensatory and punitive damages, plus cost of suit.

HOWERTON, DORRIS, STONE & LAMBERT

By: 

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*Attorneys for Plaintiff*

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

John Mark DeVous

(b) County of Residence of First Listed Plaintiff Gallatin County  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Stephen W. Stone, 300 West Main Street, Marion, IL 62959  
618-993-2616

## DEFENDANTS

Medtronic USA, Inc., Medtronic, Inc., Medtronic Mini Med, Inc., Mini Med Distribution, Inc.

County of Residence of First Listed Defendant Hennepin County  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input checked="" type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District (specify)  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. Section 1391

Brief description of cause:  
Failure of insulin pump - over delivery of insulin

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:  
 JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

02/14/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE